

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

BY: B. C. Gaible

BRUCE C. GAIBLE

State Bar No.: 07567400

400 Two Allen Center

1200 Smith Street

Houston, Texas 77002

713/654-1111 Fax: 713/650-0027

ATTORNEY FOR DEFENDANT,
ANUM ENTERPRISES, INC.

CRUSE, SCOTT, HENDERSON
& ALLEN, L.L.P.

BY: Stephen R. Bailey

Stephen R. Bailey *By Permission

State Bar No.: 01536660

2777 Allen Parkway 7th Floor

Houston, TX 77019

(713)650-6600 Fax (713)650-1720

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly sent by U. S. mail, certified mail return receipt requested, hand delivery, or by telecopy, on this 4th day of ~~December, 2007~~ January, 2008 to the following counsel:

Stephen R. Bailey
Jay H. Henderson
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019



Bruce C. Gaible

HAYS | McCONN

Attorneys at Law

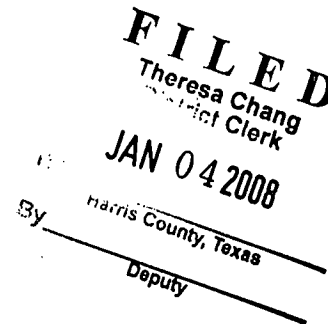
BRUCE C. GAIBLE
WWW.HAYSMCCONN.COM

DIRECT LINE: (713) 752-8301
BGAIBLE@HAYSMCCONN.COM

January 4, 2008

Hand Delivered

Mr. Delton Arnic
113th District Clerk
Harris County
201 Caroline, 10th Floor
Houston, Texas 77002



Re: Cause No. 2005-34601; *Marcy Berkley Dickey, Individually and a/n/f of Dashun Dickey and Kristian Dickey v. Metabolife International, Inc., et al*; Pending in the 113th Judicial District Court of Harris County, Texas

Dear Mr. Arnic:

Enclosed for filing in the above-captioned matter is an original and one copy of the following:

- Joint Motion to Lift Abatement for the Limited Purpose of Transfer;
- Order;
- Joint Motion to Transfer Civil Action Pursuant to Mandatory Provisions of 28 U.S.C. § 157(b)(5); and
- Order

Please file in your usual manner and return the copy file stamped to the undersigned to evidence the filing of same. Pursuant to our telephone conversation with Dorisina Hurd since the motions are joint motions, please present the Motions and Orders to the Judge for consideration.

HAYS, MCCONN, RICE & PICKERING
A Professional Corporation

04909.161 / 1065726.1

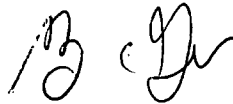
400 Two Allen Center | 1200 Smith Street | Houston, Texas 77002
Telephone 713.654.1111 | Facsimile 713.650.0027 | haysmcconn.com

January 4, 2008
Page 2

Your cooperation in this matter is greatly appreciated.

Sincerely,

HAYS, McCONN, RICE & PICKERING

A handwritten signature in black ink, appearing to read "B. C. Gaible", written in a cursive style.

Bruce C. Gaible

BCG:jb

Enclosures

cc: Mr. Stephen R. Bailey
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

2/25/08

HAYS | McCONN

Attorneys at Law

BRUCE C. GAIBLE
WWW.HAYSMCCONN.COM

DIRECT LINE: (713) 752-8301
BGAIBLE@HAYSMCCONN.COM

December 21

FILED

Theresa Chang
District Clerk

FEB 05 2008

Time: _____
Harris County, Texas

By _____
Deputy

Hand Delivered

Mr. Delton Arnic
113th District Clerk
Harris County
201 Caroline, 10th Floor
Houston, Texas 77002

Re: Cause No. 2005-34601; *Marcy Berkley Dickey, Individually and a/n/f of Dashun Dickey and Kristian Dickey v. Metabolife International, Inc., et al*; Pending in the 113th Judicial District Court of Harris County, Texas

Dear Mr. Arnic:

Enclosed for filing in the above-captioned matter is an original and one copy of a Notice of Oral Hearing on February 25, 2008, at 10:00 a.m. on the Joint Motion to Lift Abatement for the Limited Purpose of Transfer and Joint Motion to Transfer Civil Action Pursuant to Mandatory Provisions of 28 U.S.C. § 157(b)(5) previously filed. Please file in your usual manner and return the copy file stamped to the undersigned to evidence the filing of same.

Your cooperation in this matter is greatly appreciated.

Sincerely,

HAYS, McCONN, RICE & PICKERING


Bruce C. Gaible

BCG:jb

Enclosures

HAYS, McCONN, RICE & PICKERING
A Professional Corporation

04909.161 / 1073518.1

400 Two Allen Center | 1200 Smith Street | Houston, Texas 77002
Telephone 713.654.1111 | Facsimile 713.650.0027 | haysmcconn.com

February 1, 2008

Page 2

cc: Mr. Stephen R. Bailey
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019

(W/Enclosure)

CAUSE NO. 2005-34601

MARCY BERKLEY DICKEY,	§	IN THE DISTRICT COURT OF
INDIVIDUALLY AND AS NEXT FRIEND	§	
OF DASHUN DICKEY AND KRISTIAN	§	
DICKEY	§	
	§	HARRIS COUNTY, TEXAS
vs	§	
	§	
METABOLIFE INTERNATIONAL, INC., ET	§	113 th JUDICIAL DISTRICT
AL		

NOTICE OF ORAL HEARING

To: Plaintiff, by and through her attorneys of record, Stephen R. Bailey, Jay H. Henderson, Cruse, Scott, Henderson & Allen, 2777 Allen Parkway, 7th Floor, Houston, Texas 77019

PLEASE TAKE NOTICE that the Joint Motion to Lift Abatement for the Limited Purpose of Transfer and Joint Motion to Transfer Civil Action Pursuant to Mandatory Provisions of 28 U.S.C. § 157(b)(5) have been set for oral hearing on February 25, 2008, at 9:00 a.m.

The hearing on said motions will take less than 20 minutes and no court reporter is needed.

FILED
Theresa Chang
District Clerk

FEB 05 2008

Time: _____
Harris County, Texas
By _____
Deputy

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

BY: 


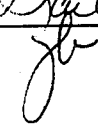
BRUCE C. GAIBLE
State Bar No.: 07567400
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
713/654-1111 Fax: 713/650-0027

ATTORNEY FOR DEFENDANT,
ANUM ENTERPRISES, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly sent by U. S. mail, certified mail return receipt requested, hand delivery, or by telecopy, on this 5th day of February, 2008 to the following counsel:

Stephen R. Bailey
Jay H. Henderson
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019


Bruce C. Gaible 

CAUSE NO. 2005-34601

MARCY BERKLEY DICKEY,
INDIVIDUALLY AND AS NEXT FRIEND
OF DASHUN DICKEY AND KRISTIAN
DICKEY

vs

METABOLIFE INTERNATIONAL, INC.,
ET AL

§
§
§
§
§
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS

HARRIS COUNTY, TEXAS

113th JUDICIAL DISTRICT

FILED
Theresa Chang
District Clerk

Time: **JAN 04 2008**

By Harris County, Texas
Deputy

**PLAINTIFF MARCY BERKLEY DICKEY, INDIVIDUALLY AND AS NEXT
FRIEND OF DASHUN DICKEY AND KRISTIAN DICKEY AND DEFENDANT
ANUM ENTERPRISES, INC.'S JOINT MOTION TO TRANSFER CIVIL
ACTION PURSUANT TO MANDATORY PROVISIONS OF
28 U.S.C. § 157(b)(5)**

COMES NOW, Plaintiffs, MARCY BERKLEY DICKEY, INDIVIDUALLY and AS NEXT
FRIEND OF DASHUN DICKEY and KRISTIAN DICKEY, and Defendant, ANUM
ENTERPRISES, INC., and file this their Joint Motion to Transfer Pursuant to 28 U.S.C.
§ 157(b)(5), in the above entitled and numbered cause, and would respectfully show
unto the court as follows:

Background

A. Facts

Plaintiffs brought suit against Metabolife International, Inc. (hereinafter
"Metabolife") in Plaintiffs' Original Petition, which was filed on or about May 23,
2005. The suit is a products liability action involving the herbal ephedra-based
weight loss product, Metabolife 356.

On or about July 1, 2005 Plaintiffs' filed their First Amended Original Petition naming Anum Enterprises, Inc. as a defendant (hereinafter "Anum"), and thereafter Anum was served and filed an Answer. Under various theories of liability plaintiffs have alleged causes of action against Metabolife International, Inc. and Anum. Thereafter, Anum asserted that it is entitled to statutory indemnity as against Metabolife for all claims and causes of action asserted by plaintiffs against it.

On or about July 30, 2005 Metabolife filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court, Southern District of California. As a result of the pending bankruptcy action of Metabolife, this current action was stayed as to both the plaintiffs' claims against Metabolife and Anum, as well as Anum's claim for indemnity against Metabolife. Therefore, Plaintiffs and Anum previously asked this court to abate this present suit. Simultaneously with the filing of said motion, Plaintiffs and Anum file this Motion to Transfer for the reasons set forth below.

B. The MDL Proceeding For Ephedra Products

On April 13, 2004, the Judicial Panel on Multidistrict Litigation (the "Panel" or "JPML") issued an order consolidating 15 similar actions involving ephedra-containing products in the Southern District of New York before Judge Jed S. Rakoff pursuant to 28 U.S.C. § 1407(hereinafter "MDL 1598"). *See In re Ephedra Prods.*

Liab. Litig., (J.P.M.L. 2004). The Panel found that the 15 actions “involve common questions of fact, and that centralization under Section 1407 in the Southern District of New York will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation.” Id. The Panel ordered transfer, even though the actions involved differences in the defendants, the products, the legal theories of recovery, and the types of injuries involved, because all of the actions “focus on alleged side effects of ephedra-containing products.” Id.

B. The Bankruptcy Proceeding

Under the weight of continued litigation by consumers of its ephedra-based products, Metabolife filed a Chapter 11 Bankruptcy Petition on or about June 30, 2005, in the United States Bankruptcy Court for the Southern District of California. This operated to invoke bankruptcy jurisdiction over the various claims pending against Metabolife and the other defendants in the various state and federal courts around the country where such claims are pending.

Thereafter, on or about October 24, 2005, the United States District Court for the Southern District of California entered an Order pursuant to 28 U.S.C. § 157(b)(5), that the personal injury tort and wrongful death claims, shall be heard in the United States District Court for the Southern District of California, rather than in state and federal courts throughout the country. As such, the Southern

District of California issued an order regarding transfer of multiple cases, in state and federal courts on June 30, 2005, to the Southern District of New York.

Finally, on or about October 11, 2007, the United States District Court for the Southern District of California entered a Supplemental Order Regarding Transfer of Cases Pursuant to 28 U.S.C. § 157(b)(5), which included *Dickey v. Metabolife, et al.*, 113th Judicial District Court for Harris County, Texas, Case No. 2005-34601. In particular, the Southern District of California ordered transfer of *Dickey v. Metabolife, et al.*, to the Southern District of California, only temporarily, for the purpose of forwarding it on to the Ephedra MDL Action in the Southern District of New York. As such, the parties hereby request transfer of this case to the Southern District of California.

MOTION TO TRANSFER

The basis for this Motion to Transfer is the mandatory venue determinations of a personal injury case provided in title 28 U.S.C. § 157(b)(5):

“The district court shall order that personal injury, tort and wrongful death claims shall be tried in the district court in which the bankruptcy case is pending, or the district court in the district in which the claim arose, as determined by the district court in which the bankruptcy case is pending. (Emphasis added).” 28 U.S.C. § 157(b)(5). Under the mandatory language of 28 U.S.C. § 157(b)(5), the “Home” District Court in which the debtor’s case was filed (or is pending) has the exclusive

jurisdiction over any court action against the debtor irrespective of where the claim was originally filed.

It is the general policy of the Bankruptcy Court that all proceedings in a bankruptcy case be conducted in the district in which the bankruptcy petition was filed (the "home court").¹ Further, for all purposes of liquidation of the amount of these claims where a right to a jury trial exists—jurisdiction for such jury trial liquidation of the amount of these personal injury claims is vested in the United States District Court pursuant to 28 U.S.C. § 157(b)(5). It is only the Federal District Court which may determine the venue for trial of these cases. No actions taken after the filing of Metabolife's Chapter 11 case may determine which court will conduct a trial of this matter, except that Federal District Court. *In A.H. Robbins, Inc. v. Piocc*, 788 F.2d 994 (4th Cir. 1986), cert. denied, 479 U.S. 876 (1986), the Fourth Circuit had "no difficulty" in finding that the district court in which the bankruptcy was pending had authority under § 157(b)(5) to determine where personal injury tort actions pending against the debtor would proceed. In analyzing the grant of "power" for the district court pursuant to Section 157(b)(5), the Fifth Circuit in *Baumgart v. Fairchild Aircraft Corp.*, 981 F.2d 824 (5th Cir. 1993) said "the district court in which the bankruptcy is pending shall have the added power to order tried in its own venue

¹ *In re Barley*, 738 F.2d 981, 988 (9th Cir. 1984); *Kotlicky v. Belford*, 64 Bankr. Rptr., 689, 691 (N.D. Ill. 1986) (a strong presumption exists favoring transfer to the home court); see also 1 Collier on Bankruptcy 11 3.02[2][a] at 3-136 (15th Ed. 1989) ("[U]nless strong reasons can be shown to the contrary, the home court is the proper venue for civil proceedings.").

personal injury tort and wrongful death claims filed elsewhere, or to order such cases tried in the district court where those claims arose." *Id.*

In the case at bar, Metabolife International filed a Chapter 11 Bankruptcy Petition in the United States Bankruptcy Court for the Southern District of California. Therefore, the Southern District of California has the exclusive jurisdiction over this action. Accordingly, the United States District Court for Southern District of California has determined the transfer of this case is proper to the United States District Court for the Southern District of California, as reflected in the court's Supplemental Order Regarding Transfer of Cases Pursuant to 28 U.S.C. § 157(b)(5). See Supplemental Order attached hereto as Exhibit "A".

Therefore, transfer of this case to the United States District Court for the Southern District of California is required. As such, the parties hereby request that this Court transfer this case to the United States District Court for the Southern District of California, so that once received by the United States District Court for the Southern District of California, it may be transferred as a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation" No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Anum request that this court grant their Motion to Transfer and transfer this case to the United

States District Court for the Southern District of California, and for such other and further relief, both special and general, at law and equity, to wit these parties may be justly entitled.

Respectfully submitted,

HAYS, McCONN, RICE & PICKERING

BY: 

BRUCE C. GAIBLE

State Bar No.: 07567400

400 Two Allen Center

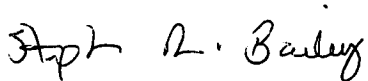
1200 Smith Street

Houston, Texas 77002

713/654-1111 Fax: 713/650-0027

ATTORNEY FOR DEFENDANT,
ANUM ENTERPRISES, INC.

CRUSE, SCOTT, HENDERSON
& ALLEN, L.L.P.

BY: 

Stephen R. Bailey *By Permission

State Bar No.: 01536660

2777 Allen Parkway 7th Floor

Houston, TX 77019

(713)650-6600 Fax (713)650-1720

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument has been duly sent by U. S. mail, certified mail return receipt requested, hand delivery, or by telecopy, on this 4th day of December, ~~2007~~ to the following counsel:

January, 2008

Stephen R. Bailey
Jay H. Henderson
Cruse, Scott, Henderson & Allen
2777 Allen Parkway
7th Floor
Houston, Texas 77019



Bruce C. Gaible



FILED

2007 OCT 11 AM 8:37

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY AO DEPUTY

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

CASE NO. 05cv1802-IEG (RBB)

**SUPPLEMENTAL ORDER REGARDING
TRANSFER OF CASES PURSUANT TO
28 U.S.C. § 157(b)(5)**

In Re:

MII LIQUIDATION fka METABOLIFE
INTERNATIONAL, INC. and ALPINE
HEALTH PRODUCTS, LLC,

Debtors/Petitioners

On or about October 24, 2005, this Court entered its Order granting the petition of the Debtors-in-Possession pursuant to 28 U.S.C. § 157(b)(5) for an order determining that personal injury tort and wrongful death ("PITWD") claims, which cannot be tried in bankruptcy court, shall be heard in this district court rather than in state and federal courts throughout the country ("PITWD Order").

On or about December 2, 2005, Debtors-in Possession provided the Court with a list identifying Ephedra Actions which were not part of the MDL proceeding as of the date of the filing of the Metabolife and Alpine Health bankruptcy petitions on June 30, 2005. This Court ordered that those cases be transferred to this Court.

810415.1

At this time, there remain five actions which were not included on that list and therefore have not yet been transferred to this Court pursuant to the PITWD Order due to the fact that they were either not yet filed, or were inadvertently overlooked. Those actions are: (1) *Bilderback v. Metabolife, et al.* Washington Superior Court for Pierce County, Case No. 05-2-06767-1; (2) *Dickey v. Metabolife, et al.* 113th Judicial District Court for Harris County, Texas, Case No. 2005-34601; (3) *German v. Metabolife, et al.* San Diego Superior Court, Case No. GIC 849826; (4) *Hazelwood v. Metabolife, et al.* Circuit Court of Jackson County, Missouri at Kansas City, Case No. 04cv233637; *Sobczak v. Me'abolife, et al.* San Diego Superior Court, Case No. GIC 849722 ("Five Remaining Cases").

Based upon the Court's November 3, 2005 order and on the stipulations signed by counsel for each of the respective parties named in the Five Remaining Cases (which are attached hereto as Exhibit 1) and to effect the transfer of the Five Remaining Cases to this Court, the Court hereby orders as follows:

1. Each of the Five Remaining Cases shall be transferred forthwith to this Court. Counsel for Debtors-in-Possession shall take such action as is necessary to transfer venue of the identified Five Remaining Cases to this Court;

2. The Five Remaining Cases are to be transferred to this Court only temporarily, for the purpose of forwarding them on to the Ephedra MDL Action in the Southern District of New York. Counsel for Debtors-in-Possession shall take such action as is necessary to complete the

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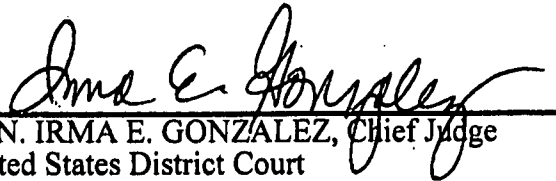
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1 transfer of said cases to the MDL, including, but not limited to notifying the JPML of the transfer
2 to this Court and requesting a CTO for transfer to the Southern District of New York.

3 **IT IS SO ORDERED.**

4 DATED: 10/10/07

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6 HON. IRMA E. GONZALEZ, Chief Judge
7 United States District Court
8 Southern District of California
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THE HONORABLE THOMAS J. FELNAGLE

SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

DENNIS C. BILDERBACK, Jr. and
DAPHNE BILDERBACK, husband and wife,
individually and the marital community
composed thereof,

NO. 05-2-06767-1

Plaintiffs,

STIPULATION FOR TRANSFER

v.

MORTON GENERAL HOSPITAL;
RONALD J. WILLIAMS, M.D.;
METABOLIFE INTERNATIONAL, INC., a
California corporation; and THE CHEMINS
COMPANY, INC., a Colorado corporation;

Defendants.

IT IS HEREBY STIPULATED by and between the parties hereto, through their
respective counsel of record, and pursuant to 28 USC Section 157(b)(5), that the above-
captioned matter be transferred to the United States District Court for the Southern District of
California.

The undersigned further stipulate that this action, once received by the United States
District Court for the Southern District of California, is a tag-along action to the existing multi-
district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR),

STIPULATION FOR TRANSFER - 1

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:

- 3 • That the United States Judicial Panel on Multidistrict Litigation ("JPML") should
- 4 forthwith send this action, pursuant to a Conditional Transfer order ("CTO"), to the
- 5 Ephedra MDL; and
- 6 • To cooperate in the designation of this action as a tag-along action and waive, to the
- 7 extent permissible under the JPML rules, any opportunity to object to or oppose such
- 8 CTO.

9 IT IS SO STIPULATED:

10 DATED this ____ day of July, 2007.

11 Dated: 7-6-07

LAW OFFICES OF REED SCHIFFERMAN

12 By Reed Schiffman

13 Reed P. Schiffman, WSBA #11172

14 Attorneys for Plaintiffs

15 Dated: 7/9/07

16 JOHNSON GRAFFE KEAY MONIZ & WICK

17 By A. Clarke Johnson

18 A. Clarke Johnson, WSBA #8280

19 Attorneys for Defendants Williams and Morton

20 General Hospital

21

22

23

24

STIPULATION FOR TRANSFER - 2

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:

- 3 • That the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer order ("CTO"), to the
5 Ephedra MDL; and
6 • To cooperate in the designation of this action as a tag-along action and waive, to the
7 extent permissible under the JPML rules, any opportunity to object to or oppose such
8 CTO.

9 **IT IS SO STIPULATED:**

10 DATED this ____ day of July, 2007.

11 Dated: 7-6-07

LAW OFFICES OF REED SCHIFFERMAN

12
13 By 

14 Reed P. Schifferman, WSBA #11172

15 Attorneys for Plaintiffs

16 Dated: _____

JOHNSON GRAFFE KEAY MONIZ & WICK

17
18 By _____

19 A. Clarke Johnson, WSBA #8280

20 Attorneys for Defendants Williams and Morton
21 General Hospital
22
23
24

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:


3 • that the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra
5 MDL; and

6 • to cooperate in the designation of this action as a tag-along action and waive, to
7 the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.
8

9
10 **IT IS SO STIPULATED:**

11 DATED: October 2, 2007

HIGGS, FLETCHER & MACK LLP

12
13 By:  for

14 WILLIAM M. LOW, ESQ.
15 Attorneys for Defendant,
16 Metabolife International, Inc.
17
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• that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and

• to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

DATED: 6/11/07

CRUSE, SCOTT, HENDERSON & ALLEN, LLP


By: 

Stephen R. Bailey
Texas Bar No. 01536660
2777 Allen Parkway, 7th Floor
Houston, Texas 77019
Tel: (713) 650-8600
Fax: (713) 650-1720
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*Attorneys for Plaintiffs,
Marcy Berkley Dickey, Individually
and As Next Friend of Dashun Dickey,
and Kristian Dickey*

DATED: 8/9/07

HAYS, McCONN, RICE & PICKERING

By: 

Bruce C. Galbie
Texas Bar No. 07567400
400 Two Allen Center
1200 Smith Street
Houston, Texas 77002
Tel: (713) 854-1111
Fax: (713) 650-0027

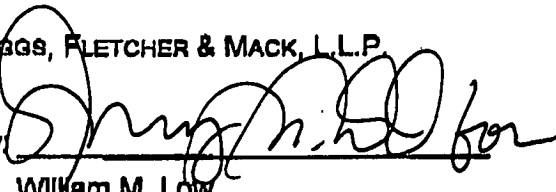
*Attorneys for Defendant
Anum Enterprises, Inc.*

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DATED: October 2, 2007

HIGGS, FLETCHER & MACK, L.L.P.

By


William M. Low
First National Bank Building
401 West "A" Street, Suite 2600
San Diego, CA 92101
Tel: (619) 238-1651
Fax: (619) 696-1410

Attorneys for Defendant

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3

1 JOHN C. THORNTON, ESQ. SBN: 84492
2 ANNE ANDREWS, ESQ. SBN: 103280
3 **ANDREWS & THORNTON**
4 2 CORPORATE PARK, SUITE 110
5 IRVINE, CALIFORNIA 92606
6 TELEPHONE: (949) 748-1000
7 FACSIMILE: (949) 315-3540

8 Attorneys for Plaintiffs

9
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN DIEGO**
12

13 **CAROLYN GERMAN and GLEN**
14 **GERMAN,**

15 Plaintiffs,

16 vs.

17 **METABOLIFE INTERNATIONAL, INC.L**
18 **MICHAEL EILIS; ROBERT BRADLEY;**
19 **MICHAEL BLEVINS and DOES 1 through**
20 **100, inclusive,**

21 Defendants.
22

23 CASE NO. GIC 849826

24 **STIPULATION FOR TRANSER**

25 **IT IS HEREBY STIPULATED** by and between the parties hereto, through their
26 respective counsel of record, and pursuant to 28 U.S.C. § 157 (b) (5), that the above-
27 captioned matter be transferred to the United States District Court for the Southern
28 District of California.

The undersigned further stipulate that this action, once received by the United
States District Court for the Southern District of California, is a tag-along action to the
existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-
1598 (JSR), pending in the United States District Court for the Southern District of New
York.

1 The undersigned agree:

- 2 • that the United States Judicial Panel on Multidistrict Litigation ("JPML") should
3 forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the
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6 to the
7 extent permissible under the JPML rules, any opportunity to object to or oppose such
8 CTO.
9

10
11 **IT IS SO STIPULATED:**
12

13
14 Dated: Oct 4, 2007

By: 

ANDREWS & THORNTON

Anne Andrews

John C. Thornton

Attorneys for Plaintiffs

15
16
17
18 Dated: _____

HIGGS, FLETCHER & MACK, LLP

19
20
21 By: _____
22
23
24
25
26
27
28

1 pending in the United States District Court for the Southern District of New York.

2 The undersigned agree:


3 • that the United States Judicial Panel on Multidistrict Litigation ("JPML") should
4 forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra
5 MDL; and

6 • to cooperate in the designation of this action as a tag-along action and waive, to
7 the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.
8

9
10 **IT IS SO STIPULATED:**

11 DATED: _____

HIGGS, FLETCHER & MACK LLP

12
13 By:  for

14 WILLIAM M. LOW, ESQ.
15 Attorneys for Defendant,
16 Metabolife International, Inc.
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27
28

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

DARRIN HAZELWOOD

Plaintiff,

v.

**METABOLIFE INTERNATIONAL,
INC., a corporation;
METABOLIFE INTERNATIONAL
LLC, a company; GLOBAL
METABOLIFE 356 LLC, a company;**

Defendants.

Case No.: 04CV233637

Division No.: 4

STIPULATION FOR TRANSFER

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel of record, and pursuant to 28 U.S.C. § 157 (b) (5), that the above-captioned matter be transferred to the United States District Court for the Southern District of California.

The undersigned further stipulate that this action, once received by the United States District Court for the Southern District of California, is a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

The undersigned agree:

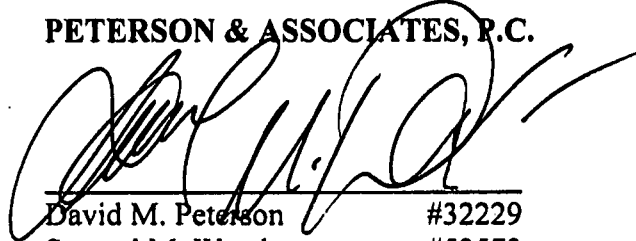
- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and

• to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

Respectfully submitted,

PETERSON & ASSOCIATES, P.C.



David M. Peterson #32229
Samuel M. Wendt #53573
Nicholas S. Clevenger #57171
Peter E. Goss #57933

The Park Plaza Building
801 West 47th Street, Suite 107
Kansas City, Missouri 64112
Phone: (816) 531-4440
Fax: (816) 531-0660

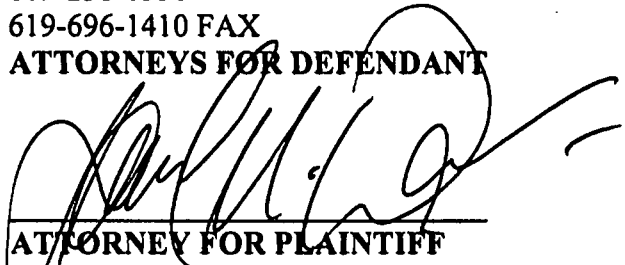
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE:

I hereby certify that on this 18th
day of June, 2007 a true and
correct of the above and
foregoing document was
sent via U.S. Mail postage
prepaid to:

Higgs, Fletcher & Mack LLP
William M. Low, Esquire
Mary R. Robberson, Esquire
401 West "A" Street, Suite 2600
San Diego, CA 92101
619-236-1551
619-696-1410 FAX

ATTORNEYS FOR DEFENDANT


ATTORNEY FOR PLAINTIFF

pending in the United States District Court for the Southern District of New York.

The undersigned agree:

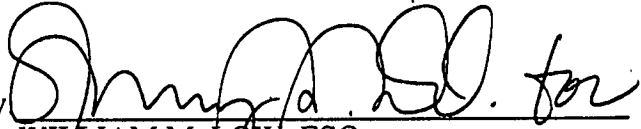
- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and
- to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

DATED: October 2, 2007

HIGGS, FLETCHER & MACK LLP

By


WILLIAM M. LOW, ESQ.
Attorneys for Defendant,
Metabolife International, Inc.

Trent B. Miracle
SIMMONSCOOPER LLC
707 Berkshire Blvd.
East Alton, IL 62024
(618) 259-2222
Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

Nicole A. Sobczak, Individually,

Plaintiff,

v.

Metabolife International, Inc., and
DOES 1 through 50,

Defendants.

CASE NO. GIC 849722

STIPULATION FOR TRANSFER

IT IS HEREBY STIPULATED by and between the parties hereto, through their respective counsel of record, and pursuant to 28 U.S.C. § 157 (b) (5), that the above-captioned matter be transferred to the United States District Court for the Southern District of California.

The undersigned further stipulate that this action, once received by the United States District Court for the Southern District of California, is a tag-along action to the existing multi-district litigation styled "In re Ephedra Products Liability Litigation," No. 04-1598 (JSR), pending in the United States District Court for the Southern District of New York.

The undersigned agree:

- that the United States Judicial Panel on Multidistrict Litigation ("JPML") should forthwith send this action, pursuant to a Conditional Transfer Order ("CTO"), to the Ephedra MDL; and
- to cooperate in the designation of this action as a tag-along action and waive, to the extent permissible under the JPML rules, any opportunity to object to or oppose such CTO.

IT IS SO STIPULATED:

DATED: 6-11-07

SIMMONSCOOPER LLC

By: 

TRENT B. MIRACLE, ESQ.
Attorney for Plaintiff,

DATED: October 2, 2007

HIGGS, FLETCHER & MACK LLP

By: 

WILLIAM M. LOW, ESQ.
Attorneys for Defendant,

1 MII LIQUIDATION fka METABOLIFE
2 INTERNATIONAL, INC. and ALPINE
3 HEALTH PRODUCTS, INC.

CASE NO. 05cv1802-IEG (RBB)

4 **PROOF OF SERVICE**

5 I, Denise L. Saria, declare:

6 I am a resident of the State of California and over the age of eighteen years, and not a
7 party to the within-entitled action; my business address is 401 West "A" Street, Suite 2600, San
8 Diego, California 92101-7913. On October 5, 2007, I served the within documents, with all
9 exhibits (if any):

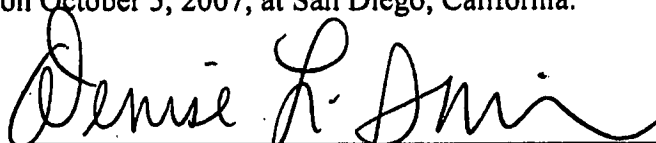
10 **SUPPLEMENTAL ORDER REGARDING TRANSFER OF**
11 **CASES PURSUANT TO 28 U.S.C. § 157(b)(5)**

- 12 ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set
13 forth below on this date before 5:00 p.m. A copy of the transmission report issued
14 by the transmitting facsimile machine is attached hereto.
- 15 ☒ by placing the document(s) listed above in a sealed envelope with postage thereon
16 fully prepaid, in the United States mail at San Diego, California addressed as set
17 forth below.
- 18 ☐ by placing the document(s) listed above in a sealed _____ envelope and
19 affixing a pre-paid air bill, and causing the envelope to be delivered to a
20 _____ agent for delivery. A true and correct copy of the airbill is attached
21 hereto.
- 22 ☐ by personally delivering the document(s) listed above to the person(s) at the
23 address(es) set forth below.
- 24 ☐ by transmitting via e-mail or electronic transmission the document(s) listed above
25 to the person(s) at the e-mail address(es) set forth below.

26 **See attached Service List**

27 I am readily familiar with the firm's practice of collection and processing correspondence
28 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose
direction the service was made. Executed on October 5, 2007, at San Diego, California.


Denise L. Saria

SERVICE LIST

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and As Next Friend of Dashun Dickey,
and Kristian Dickey*

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Anum Enterprises, Inc.*

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*Attorneys for Plaintiff,
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Fax: 206.365.3898

*Attorney for Plaintiffs,
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Daphne Bilderback, husband and wife,
individually and the marital community
composed thereof*

A. Clarke Johnson, Esq.
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*Attorneys for Defendants,
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